PART IV

Section 1-C

GENERAL STATUTORY RULES AND STATUTORY ORDERS ISSUED BY THE CENTRAL GOVERNMENT AND ORDERS MADE BY THE PRESIDENT AND REPUBLISHED BY THE STATE GOVERNMENT.

ELECTION COMMISSION OF INDIA

ASHOK ROAD,
NEW DELHI-1.

NOTIFICATION

Dated 20th September 1978.

No. 82/KT-LC/1/76 (77).—In pursuance of section 111 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the report dated 14th October, 1977 of the High Court of Karnataka at Bangalore in Election Petition No. 1 of 1976.

By order,
T. NAGARATHNAM,
Secretary to the Election Commission of India.

REPORT OF WITHDRAWAL TO THE ELECTION COMMISSIONER IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Election Petition No. 1 of 1976.

Govind P. Vadeyaraj, S/o Parushuram Vadeyaraj,
aged 38 years, Housing Board Colony,
Behind District Court, Gulbarga. ...*Petitioner*
(By Sri N. Santhosh Hegde)

Vs

1. The Returning Officer, Gulbarga Local Authorities Constituency, Karnataka Legislative Council and Deputy Commissioner, Gulbarga District, Gulbarga.
2. Baswant Rao S/o Shivappa Gouda, major, r/o Raddewadgi, Post Kolkur, Jewargi Tq., Gulbarga District. ...*Respondents*

(By I Additional Govt. Advocate for R-1)
(By Sri B. S. Raikote for R-2).

Election Petition filed under Section 81 of the Representation of People Act-Act No. 43 of 1951, by the petitioner on 7th July 1976 praying that this Hon'ble Court may be pleased (1) to call for the entire records from the 1st respondent; (2) to declare that the 2nd respondent is disqualified under Section 9-A of the Representation of People Act from contesting an election to the Karnataka Legislative Council; (3) to declare the election of the 2nd respondent to the seat, to represent the Gulbarga Local Authorities Constituency in the Karnataka State Legislative Council in the election held on 6th June 1976 as invalid; (4) to further declare that the petitioner has instead been duly elected to represent the Gulbarga Local Authorities Constituency in the Karnataka Legislative Council, pursuant to the election held to the said seat on 6th June 1976, and (5) to grant costs of the petition.

Subsequent thereto, the petitioner filed an application on the 13th April 1977 under Section 109 and 110 of the Representation of People Act, 1951 for leave of the Court to withdraw his petition.

By order dated 27th day of June 1977 passed by this Court, the aforesaid petition has been dismissed as withdrawn without the costs of either of the parties.

It is therefore for the information of the Election Commission under Sections 111 of the Representation of People Act, 1951 that the above Election Petition has been dismissed as withdrawn without the costs of either of the parties.

By Order of the Court

Sd/-

Assistant Registrar.

ANNEXURE

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated the 27th day of June 1977

BEFORE

THE HON'BLE MR. JUSTICE D.B. LAL

ELECTION PETITION NO. 1 OF 1976

BETWEEN :

Govind P. Vadeyaraj, S/o Parshuram Vadeyaraj,
aged 38 years, Housing Board Colony,
Behind District Court, Gulbarga. ... *Petitioner*

(By Sri N. Santhosh Hegde)

-Vs-

1. The Returning Officer, Gulbarga Local Authorities Constituency, Karnataka Legislative Council & Deputy Commissioner, Gulbarga District, Gulbarga.

2. Baswant Rao, S/o Sivappa Gowda,
Major, Resident of Raddewadgi, Post
Kolkur, Jawargi Taluk, Gulbarga Dist. ... *Respondents*

(By Sri K. S. Puttaswamy, I Addl. Government Advocate for the Respt. No. 1, and Sri B. S. Raikote, for the Respt. No. 2)

Election Petition filed by the Petitioner under Section 81 of the Representation of the People Act, 1951 challenging the Election of the Respondent No. 2 to the Mysore Legislative Council, from Gulbarga Local Authorities Constituency in the Bye-Election held in June 1976 and seeking an order that (i) entire records be called for from the I Respondent, (2) the II Respondent be directed to be disqualified under S. 9-A of the Representation of the People Act from contesting an Election to the Karnataka Legislative Council (3) the Election of the 2nd Respondent to the seat, to represent the Gulbarga Local Authorities Constituency, in the Karnataka Legislative Council, in the Election held on 6th June 1976 be held as invalid. (4) that it be further declared that the Petitioner has instead been duly elected ; and (5) for such consequential reliefs and costs of the petition.

This Election Petition coming on the trial on 20th January 1977, 31-1-1977, 21-2-1977 28-3-1977, 11-4-1977, 12-4-1977 and 13-4-1977 in the presence of Sri N. Santhosh Hegde, Advocate for the Petitioner and Sri K. S. Puttaswamy, I Additional Government Advocate and Advocate for the Respondent No. 1 and Sri B. S. Raikote, Advocate for Respondent No. 2, and this Election Petition having stood over for consideration, the Court made the following order this 27th day of June, 1977.

ORDER

This election petition is filed, contesting the Election of respondent No. 2 who was successful in the Election for the Local Authorities Constituency for the Karnataka Legislative Council from Gulbarga District. Respondent No. 1 is the Returning Officer, Gulbarga Local Authorities Constituency.

2. The only ground on which the petitioner sought for the quashing of the Election of the respondent No. 2 was, that the latter was due for arrears to the Government in respect of excise dues and other claims. The Election petition was filed in this Court on 7th July 1976 and it was based on a certificate issued to the petitioner on 15th May 1976 wherein it was specified that the respondent No. 2 was due to the Government in a sum of Rs. 5,000/- in respect of the excise dues. Subsequently, it appears the respondent No. 2 obtained another certificate from the Government which is dated 17th August 1976, obviously after filing of the election petition saying that nothing is due from the respondent No. 2 in respect the excise dues or any other dues. It is therefore clear that the very same authority has rendered nugatory the previous certificate dated 15th May 1976 on the basis of which the petitioner filed the present Election petition. The learned counsel for the petitioner also submits that on that ground, it is not like that the petitioner would succeed and as such he sought leave of this Court to withdraw the Election petition.

3. It is manifest, the petitioner is not induced by any bargain or consideration, nor can it be stated that for any such reason the petitioner, has asked for the withdrawal of the Election petition. As such, the petitioner is entitled to withdraw the petition.

4. Due publication of the notice was made in the official Gazette under Section 109 (2) of the Representation of the People Act, 1951.

5. The petition is therefore dismissed as withdrawn.

As regards costs, it is abundantly clear that for no fault of the petitioner, the only ground which was previously made out in his favour, is no longer thereto sustain the petition. In the circumstances, the petitioner cannot be saddled with the costs of either of the parties. The notice of withdrawal may be published in the official Gazette as required U/s. 110 (3) (b).

After the expiry of 14 days period of time in case no one has applied for his substitution as petitioner in place of the party withdrawing, a report in respect of the withdrawal of the petition shall be submitted to the Election Commissioner.

Sd/-
D B. LAL,
Judge.
27th June 1977.

"Copy"

Sd/-
II Assistant Registrar

(Seal)

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